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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,535	08/29/2001	James E. Stein	01997/515001	7176

21559 7590 09/24/2003

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EXAMINER

NAFF, DAVID M

ART UNIT PAPER NUMBER

1651

DATE MAILED: 09/24/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO. <i>09/442,335</i>	FILING DATE <i>8/29/07</i>	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION <i>Stein</i>	ATTORNEY DOCKET NO. <i>01997/515001</i>
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EXAMINER <i>Naff</i>

ART UNIT <i>1651</i>	PAPER <i>10</i>
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DATE MAILED:

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Commissioner for Patents

The amendment of 6/24/03 amended the specification, canceled claims 1-20, and added new claims 21-35. Newly submitted claims 21-35 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: canceled claims 1-20 are drawn to a scaffold system or composition, whereas claims 21-35 are drawn to a method of enhancing in vivo survival of parenchymal cells in an implanted scaffold, and to a method of producing a functional vascularized organ tissue in vivo. The scaffold of claims 1-20 is classified in 435/395 and can be used for in vitro methods of growing cells or in in vivo methods other than required by claim 21-35, and the methods of claims 21-35 are classified in 424/423. Therefore, claims 21-35 are claiming an invention distinct from the invention of claims 1-20.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 21-35 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The amendment filed on 6/24/03 canceling all claims drawn to the elected invention by original presentation and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because of reasons set forth above.

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Naff whose telephone number is 703-308-0520. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn can be reached on 703-308-4743. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

David M. Naff

Primary Examiner Art Unit 1651

DMN
9/22/03